IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1455 OF 2001.

Vidyadhar Budhaji Thakur. ... Petitioner.

Versus.

Ashirwad Vidyadhar Thakur & anr. ... Respondents.

Shri Ganesh Gole for the Petitioner.

Shri V.S.Gharat for the Respondent No.1.

Ms.M.H.Mhatre, A.P.P. for the Respondent No.2-State.

CORAM : ABHAY S. OKA, J.

DATED : 6th October, 2005.

P.C.:

1. Heard Shri Gole for the Petitioner and Shri Gharat for the Respondent No.1.

2. The petition arises out of an application under section 125 of the Code of Criminal Procedure, 1973 filed by the Respondent No.1 through his mother. The opposition of the Petitioner is based on a denial of paternity of the Respondent No.1. The trial Court accepted the case of the Respondent No.1 and held that the Respondent No.1 is the son of the original Applicant No.1 born to the Petitioner. Therefore, the Petitioner was directed to pay monthly allowance of Rs.500/- per month. Revision Application preferred by the Petitioner has been rejected by the Sessions Court.

3. Shri Gole submitted that the Revisional Court

Judgment itself takes a note of the fact that initially the Petitioner was convicted for an offence under section 417 of the Indian Penal Code and in Appeal conviction has been set aside. He submitted that only on the basis of blood group, finding regarding paternity could not have been recorded by the Courts below. He submitted that in view of the acquittal of the Petitioner, no interference is called for.

4. I have considered the submissions. The Courts have accepted the evidence of the mother of the Respondent No.1 regarding her regular relationship with the Petitioner. Apart from the reports relating to the blood group of the Petitioner, Respondent No.1 and the mother of the Respondent No.1, the learned Additional Sessions Judge observed that the Petitioner has not stepped into the witness box.

5. Considering the evidence on record, in my view, no fault can be found with the approach of the Courts below. The mother of the Respondent No.1 had stepped into the witness box and deposed about her relationship with the Petitioner and about the paternity of the Respondent No.1. Inspite of this position, the Petitioner has not chosen to enter the witness box to deny the paternity of the Respondent No.1. No fault can be found with the impugned Judgments and orders.

6. The finding regarding paternity of the Respondent No.1 has been recorded in the proceedings under section 125 of the Code of Criminal Procedure, 1973 which is a proceeding of summary nature. It is obvious that the findings which are recorded by the Courts below are for the limited purpose of considering the claim of the Respondent No.1 under section 125 of the said Code of 1973.

7. Subject to what is stated above, the petition is rejected.

Judge.